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**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

|                      |   |                                 |
|----------------------|---|---------------------------------|
| Wallen Lawson,       | ) | <b>8:18-cv-00705- JVS(JPRx)</b> |
|                      | ) |                                 |
| vs.                  | ) | <b>COURT’S RULINGS ON</b>       |
|                      | ) | <b>DEPOSITION DESIGNATIONS</b>  |
| PPG Industries, Inc. | ) |                                 |
|                      | ) |                                 |
|                      | ) |                                 |
|                      | ) |                                 |
|                      | ) |                                 |

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UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

Wallen Lawson,

Plaintiff,

vs.

Civil Action No.

8:18-cv-00705-AG-JPR

PPG Architectural Finishes,

Inc.,

Defendant.

~~~~~

*no change*  
*JVS 4/22/25*

DEPOSITION OF MICHAEL COOKSEY

Anaheim, California

Tuesday, March 12, 2019

Reported by:

NATALIE KHAMIS

CSR No. 14260

JOB No. 224588

1 A. No, to me, a market walk would be my district  
2 manager's store visit or market director's store visit.  
3 He'd come in with a team, and they would walk and asses  
4 areas of the building, and then we would, you know,  
5 discuss the findings of the day or things to work on or  
6 whatever that would be, but it wouldn't have anything to  
7 do with vendor rep or paint department or anything  
8 specifically.

9 Q. Okay. Did anyone ever advise you that  
10 Clarence Moore had directed his territory managers to  
11 intentionally mistint any paint that was being sold in  
12 the store?

**Foundation  
Calls for  
Speculation  
Relevance  
403**

13 MR. BINDER: Objection. No foundation.

14 MS. LAVI: And I'll join in that and calls for  
15 speculation.

16 BY MR. FOX:

17 Q. Did you ever hear of that? Were you ever aware  
18 of that?

19 A. I'm not sure who Clarence Moore is, so I don't  
20 know what it is you're referring to. I don't think so.

21 Q. Okay. Let me ask you this: Are you aware of  
22 any instances where paint sold in your store -- in the  
23 Huntington store was intentionally mistinted by anyone?

**Foundation  
Relevance  
403**

24 A. No.

25 Q. Would that have been inappropriate?

**Foundation  
Relevance  
403  
Opinion**

**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

1

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 - - -

4 WALLEN LAWSON, )

5 Plaintiff, )

6 vs. )

Case No.  
8:18-cv-00705-AG-JPR

7 PPG ARCHITECTURAL )

8 FINISHES, INC., )

9 Defendant. )

10 - - -

11 Videotape Deposition of DAVID DUFFY

12 Thursday, February 21, 2019

13 - - -

14 The videotape deposition of DAVID DUFFY,  
15 called as a witness by the Plaintiff, pursuant to  
16 notice and the Federal Rules of Civil Procedure  
17 pertaining to the taking of depositions, taken  
18 before me, the undersigned, Nina Warren Biehler, a  
19 Notary Public in and for the Commonwealth of  
20 Pennsylvania, at the law offices of Obermayer  
21 Rebmann Maxwell & Hippel LLP, Suite 5240, One  
22 Mellon Center, 500 Grant Street, Pittsburgh,  
23 Pennsylvania 15219, commencing at 10:10  
24 o'clock a.m., the day and date above set forth.

20

21

22 - - -

23 NETWORK DEPOSITION SERVICES  
1101 GULF TOWER  
707 GRANT STREET  
24 PITTSBURGH, PENNSYLVANIA 15219  
(866)565-1929

25 - - -

**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

29

1 assumes facts.

2 But you can answer.

3 THE WITNESS: That was the  
4 speculation that I gathered from Mr. Dalton  
5 when he brought the information back.

6 BY MR. FOX:

7 Q Okay. Did you report results of your  
8 investigation to Lowe's?

9 A I am not aware if we did or not.

10 Q You didn't do it -- you didn't report  
11 to Lowe's personally?

12 A No, sir.

13 Q And you're not aware that anyone else  
14 did --

15 A Correct.

16 Q -- right?

17 Why was Lowe's not informed of this  
18 inventory fraud?

19 MR. SCHROEDER: Objection,  
20 assumes facts, calls for speculation.

21 BY MR. FOX:

22 Q So you don't know?

23 A I do not know.

24 Q Did you raise the question with anyone  
25 at PPG, hey, maybe we should let -- let our

Relevance  
Foundation  
Assumes Facts

**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

34

1 been -- had been fired?

2 A I believe it was a conversation with  
3 counsel, Bill Adams.

4 Q When -- do you recall when that  
5 conversation occurred?

6 A I do not.

7 Q Would it have been shortly after Wally  
8 was fired?

9 A I have a funny feeling it was more  
10 along the lines of when these interviews -- these  
11 depositions were set up.

12 Q Okay. Do you think it's ironic that  
13 the whistle blower who reported the misconduct of  
14 Clarence Moore was terminated by Clarence Moore  
15 and that --

16 MR. SCHROEDER: Object -- sorry,  
17 finish your question.

18 BY MR. FOX:

19 Q -- Clarence Moore is still working at  
20 the company?

21 MR. SCHROEDER: Objection, calls  
22 for an opinion. Assumes facts.

23 You can answer.

24 THE WITNESS: In my opinion, yes.

25

Relevance  
403  
Foundation  
Opinion

**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

35

1 BY MR. FOX:

2 Q Did you ever -- when you spoke with  
3 Wally Lawson -- let me ask you this, what was  
4 your -- did it seem like he was an honest guy,  
5 when you spoke with him?

6 MR. SCHROEDER: Objection,  
7 foundation.

8 You can answer.

9 THE WITNESS: The person I spoke  
10 to on the phone during that time frame, yes,  
11 I found him to be very honest, very credible.

12 BY MR. FOX:

Foundation

13 Q Did people that conducted -- were  
14 involved in the investigation think that Clarence  
15 Moore was honest and credible?

16 MR. SCHROEDER: Objection.

17 THE WITNESS: I do not know the  
18 answer to that.

19 BY MR. FOX:

20 Q Did anyone conducting the  
21 investigation ever express to you any negative  
22 views about Clarence Moore?

23 A No, sir, not that I recall.

24 Q Did they ever suggest to you that he  
25 had a tendency to break the rules?



**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

36

Relevance  
403

1 A No, sir, not that I'm aware of.

2 Q Did they ever discuss with you that  
3 his -- in his signature line for his e-mails he  
4 expressed a disrespect for -- for playing by the  
5 rules?

6 MR. SCHROEDER: Objection to  
7 the -- you can answer to the extent you're  
8 not disclosing attorney/client  
9 communications.

10 THE WITNESS: Other than being  
11 aware of that tag line on his e-mails, that's  
12 all.

13 BY MR. FOX:

Relevance  
403

14 Q Okay. What was the tag line that you  
15 were aware of?

16 A I just -- something about compliance  
17 not being as important as other things.

18 Q Okay. And how did you become aware of  
19 that?

20 A Through an e-mail discovery process.

21 Q Okay, so that was something you  
22 became aware of after -- after the litigation was  
23 filed -- oh, no, I'm sorry, when you say e-mail  
24 discovery process, you mean discovery during the  
25 course of the investigation, right?



**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

37

1 A That is correct.

2 Q Okay. Did someone bring that e-mail  
3 to your attention?

4 A I -- I found it.

5 Q Returning to the conversation with  
6 Wally Lawson, did he discuss whether or not  
7 mistinting was happening in other regions of the  
8 country, other than his region?

9 A I believe Mr. Lawson indicated that it  
10 was happening in specific states that were --  
11 would have been in addition to his area, that's  
12 correct.

13 Q Okay. Did he indicate those states?

14 A If I'm not mistaken, it was Texas.

15 Q Okay. Did he identify any persons who  
16 were knowledgeable about the mistinting that might  
17 be occurring in Texas?

18 A I don't recall a specific name, no.

19 Q Did he tell you that many of the  
20 territory managers were bragging about mistinting  
21 the paint?

22 A Yes, sir.

23 Q Did that concern you?

24 A Yes, sir.

25 Q After you had the call with Wally

**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

50

Relevance  
403

1 A That's correct.  
2 Q Did you factor that into your analysis  
3 in determining the potential amount of the fraud?  
4 A No, sir.  
5 Q Why not? Why didn't you do that?  
6 A That wasn't my decision.  
7 Q Whose decision was it?  
8 A Counsel's.  
9 Q So, in fact, it could have been a lot  
10 more than 300 products that were mistinted,  
11 correct?

12 MR. SCHROEDER: Objection, calls  
13 for speculation.

14 THE WITNESS: Correct.

15 BY MR. FOX:

16 Q Now, in the Phoenix region the company  
17 had 16 territory managers, correct?

18 A I don't remember the exact number.

19 Q Does that sound right to you?

20 A It would be close, yes.

21 Q And approximately 140 Lowe's stores,  
22 locations; does that sound right?

23 A Sounds right.

24 Q Do you know how long the practice of  
25 mistinting continued?

**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

69

Relevance  
Foundation

1 A Yes, sir.

2 Q Okay, I'd like to show you Exhibit 13.

3 Do you recall seeing this e-mail?

4 A I don't recall off the top of my head,  
5 no.

6 Q Were you aware that the territory  
7 manager in the Houston region had reported the --  
8 as reflected in the e-mail, the statement, "He  
9 told me that I can give the store credit for X  
10 amount of gallons and then turn around and mistint  
11 them or leave them on the shelf.

12 "I told him it sounded shady and I  
13 wasn't going to do that.

14 "He then tells me it's fine to do that  
15 as long as you don't do it all the time, because  
16 Matt Thoman sees those RA reports and too much or  
17 too many times can cause a red flag.

18 "Sorry, but that sounds a little  
19 unethical to me."

20 So were you aware that a territory  
21 manager had voiced this?

22 A No, I'm not aware of it.

23 Q And were you aware of Brian Wells'  
24 response, as reflected in the e-mail?

25 A No, sir.

**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

70

Relevance  
Foundation

1 Q Would that have concerned you?  
2 A Yes, sir.  
3 Q Why is that?  
4 A I think it's clearly stated that it  
5 sounds unethical.  
6 Q Do you know what follow-up was done  
7 with Mr. Wells --  
8 A I do not.  
9 Q -- on this?  
10 Okay, I'd like to show you Exhibit 14.  
11 Okay, do you recall seeing this e-mail  
12 exchange?  
13 A Yes.  
14 Q Okay, and this is an e-mail exchange  
15 that contains the concerns noted by the Houston  
16 territory manager, and reveals that it was Coree  
17 Bell, correct?  
18 A Correct.  
19 Q And you -- you had -- in this exchange  
20 you had indicated to Ian, in your -- in the middle  
21 of the page, your response, "Ian, thanks for the  
22 update.  
23 "I'm on a c-call for the next 45  
24 minutes. I will track you down after that call.  
25 "Thanks for providing this.

*Deer Take*



**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

87

1 And if you had a conversation  
2 that was not with counsel you can discuss it;  
3 otherwise, you shouldn't answer the question.

4 THE WITNESS: It was all with  
5 counsel.

6 BY MR. FOX:

7 Q Okay. Was there anything more that  
8 you would have liked to have done had -- had you  
9 had the opportunity to do so, to determine the  
10 extent of mistinting in the field, beyond  
11 conducting this SurveyMonkey?

12 A I don't have any -- that's up to the  
13 operations team.

14 Q Okay. Would it not have been possible  
15 to conduct some sort of audit or review, on a  
16 random basis, at the store level, to more  
17 thoroughly evaluate the extent of any mistinting  
18 going on?

19 A Could have been possible, yes.

20 Q Do you know why that option was not  
21 pursued?

22 A I do not.

23 Excuse me, I'm sorry.

24 Q So can we just go through the data  
25 indicated on the first page?

Relevance  
Calls for  
Speculation

*Reinstated*

**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

94

1 MR. SCHROEDER: Objection, calls  
2 for speculation.

3 THE WITNESS: I'm not aware of  
4 it.

5 BY MR. FOX:

Relevance  
407  
(Subsequent  
Remedial  
Measures)

6 Q Okay. Then the next item is,  
7 "Incorporate the policy into the on-boarding  
8 process as well during training meetings to  
9 reinforce the proper handling of PPG products."

10 What did you mean by that?

11 A That any new hire that would come on  
12 board would be given this documentation to  
13 understand what the rules and regulations were  
14 operating within these businesses.

15 Q Okay. That all incoming employees  
16 would be instructed, thou shalt not mistint --

17 A Yes, sir.

18 Q -- if you will?

19 A Yes, sir.

20 Q Okay. Do you know if that suggestion  
21 you made was incorporated?

22 A I do not know.

23 Q The next item is, "Review with the  
24 RSM, slash, DSM team the proper handling of PPG  
25 product and to exercise care when providing



**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

95

Relevance  
407  
(Subsequent  
Remedial  
Measures)

1 direction to the TM population during market  
2 walks, slash, conference calls to always execute  
3 via the documented practice."

4 What did you mean by that proposal?

5 A It was to make sure that in the -- in  
6 lines with communications, that people didn't  
7 misinterpret, misunderstand any communications  
8 that would have happened. If it was not  
9 documented on how to do something they should not  
10 have done it.

11 Q Okay, was that proposal carried out?

12 A I'm not aware of it.

13 Q Was -- and you conclude by saying,  
14 "Based on availability, I will attempt to schedule  
15 a conference call to discuss any questions you may  
16 have and review the suggested next steps."

17 Was such a conference call conducted?

18 A Correct.

19 Q And who participated?

20 A If I'm not mistaken, it was corporate  
21 counsel and Cathie McKinley, Max Wetzel and Dave  
22 Cole.

23 Q Okay.

24 A I don't recall if Matt Thoman was  
25 involved or not.

**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

97

1 out of the data.

2 Q Okay, so based upon what came out of  
3 the data, what was your estimate as to the amount  
4 of gallons of Rescue It product that were  
5 mistinted?

6 A I'd have to go back and look on the  
7 report.

8 Q Because it looks like, for example,  
9 here in -- Participant No. 78, on Page 3/9, says,  
10 for that person alone, approximately 150 gallons  
11 over the last two years would be a moderate guess.

12 MR. SCHROEDER: What's the Bates  
13 number of the page you're looking at?

14 MR. FOX: 780.

15 MR. SCHROEDER: 780?

16 MR. FOX: Yes. It says,  
17 Participant 78.

18 BY MR. FOX:

19 Q Do you see that?

20 A Yes, sir.

21 Q So that's just one participant in the  
22 survey saying they -- they -- admitting to  
23 mistinting 150 gallons, correct?

24 MR. SCHROEDER: Object to the  
25 form.

Relevance  
Foundation

**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

98

Relevance  
Foundation  
Calls for  
Speculation

1 BY MR. FOX:

2 Q Is that your interpretation?

3 A Correct.

4 Q So does that lead you to believe  
5 that -- and then if you go -- now, let's just turn  
6 to the next page.

7 If you go to Participant 128, on the  
8 next page, they admit to tinting -- mistinting 100  
9 gallons.

10 And then if you go to Participant 144,  
11 they admit to mistinting approximately 100 to 150  
12 gallons.

13 Just with those three participants  
14 alone, you've already well exceeded the 300  
15 gallons you initially estimated, correct?

16 A Correct.

17 Q So did anyone make any further effort,  
18 other than conducting the survey, to determine the  
19 amount of paint that was actually mistinted?

20 A Not that I'm aware of.

21 Q Were -- do you know if PPG's outside  
22 auditors were ever informed of the mistinting  
23 fraud?

24 A I don't know.

25 MR. SCHROEDER: Objection,

*Piercing*

**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

101

1 THE WITNESS: You'd have to talk  
2 to the technical team, I'm unaware.

3 BY MR. FOX:

4 Q Okay.

5 It also talks about -- some of these  
6 comments also talk about Assure Base 2. Like, for  
7 example, on Page 788, the very top of the page,  
8 Respondent No. 25 states that, "Things like  
9 mistinting products, such as very old Icon or  
10 discontinued Assure Base 2."

11 Do you know what that refers to?

12 A No, sir.

13 Q It looks like there are a lot of  
14 things that are complained of in here that  
15 weren't, necessarily, the subject of your  
16 investigation, that related to unethical  
17 misconduct in the field, correct?

18 A Correct.

19 Q What did you do to assure yourself  
20 that that -- that that different type of unethical  
21 misconduct wasn't related or not related to  
22 Clarence Moore?

23 MR. SCHROEDER: Objection,  
24 assumes facts.

25 You can answer.

Relevance  
Foundation

*Present*



**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

102

Relevance  
Foundation

1 THE WITNESS: We didn't take any  
2 action that I'm aware of. I did not.

3 BY MR. FOX:

4 Q Was Clarence Moore ever forced to  
5 revise his byline?

6 A I do not know.

7 Q Was there someone in the company who  
8 was protecting Clarence Moore, do you know?

9 A I do not know.

10 Q Do you know if he had a champion or  
11 supporter at higher levels of management?

12 A I do not know.

13 Q Was Sean Kacsir a supporter of  
14 Clarence Moore, if you know?

15 MR. SCHROEDER: Objection to  
16 foundation.

17 THE WITNESS: I do not know.

18 BY MR. FOX:

19 Q Were you aware of any of the stated  
20 reasons why Wally Lawson was terminated?

21 A No, sir.

22 Q Were you aware that -- let me ask you,  
23 did you ever have any discussions with Andy --  
24 Andy Mayhew about Wally Lawson?

25 A No, sir.

**NETWORK DEPOSITION SERVICES**  
**Transcript of David Duffy**

105

Relevance  
Foundation

1 BY MR. FOX:

2 Q I just have one further question.

3 Was any action taken by PPG as a  
4 result of the investigation that you oversaw?

5 MR. SCHROEDER: Objection,  
6 foundation.

7 THE WITNESS: I'm -- if it --  
8 from the Lowe's perspective, I do not know.

9 MR. FOX: Okay, thank you, I have  
10 no further questions. Thank you, sir.

11 MR. SCHROEDER: I just have one  
12 point of clarification.

13 - - -

14 EXAMINATION

15 BY MR. SCHROEDER:

16 Q If you could look at what's been  
17 marked as Exhibit 2, Plaintiff's Exhibit 2.

18 Mr. Duffy, is there anything in  
19 Plaintiff's Exhibit 2 that indicated to you, at  
20 the time you reviewed it, that this complaint  
21 involved Lowe's stores?

22 A No, sir.

23 Q Okay. So if you turn to the third  
24 page, and you see -- there's the Messages section  
25 there, including a message from you; is that



**NETWORK DEPOSITION SERVICES**  
**Transcript of Catherine McKinley**

1

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 WALLEN LAWSON, )  
4 Plaintiff, ) Case No.  
5 vs. ) 8:18-cv-00705-AG-JPR  
6 PPG ARCHITECTURAL )  
7 FINISHES, INC., )  
8 Defendant. )

9 - - - - -  
10 THE VIDEOTAPE OF CATHERINE MCKINLEY  
11 WEDNESDAY, MAY 15, 2019  
12 - - - - -

12 The videotape deposition of CATHERINE  
13 MCKINLEY, called by the Plaintiff for examination  
14 pursuant to the Federal Rules of Civil Procedure,  
15 taken before me, the undersigned, Aimee N. Szinte,  
16 Notary Public within and for the State of Ohio,  
17 taken at Cleveland Metropolitan Bar Association,  
18 1375 East Ninth Street, Second Floor, Cleveland,  
19 Ohio, commencing at 10:30 a.m., the day and date  
20 above set forth.

21 JVS 4.22.25

22  
23 *reinstating*  
24 *testimony*  
25

**NETWORK DEPOSITION SERVICES**  
**Transcript of Catherine McKinley**

18

Argumentative  
Relevance

1 Q Okay. Well, you said you were not part of the  
2 investigation process, but you were the head of  
3 the group, the 6 or 700 persons within the  
4 organization of which he was a member, correct?

5 A Yes.

6 Q Did you not think it was appropriate for  
7 someone in the organization to confront  
8 Clarence Moore, tell him directly, "Mr. Moore,  
9 you shouldn't be doing this. You shouldn't be  
10 mistinting the paint and concealing it from the  
11 Lowe's associates."

12 A That was not my direct responsibility.

13 Q Did anyone undertake that responsibility?

14 MR. SCHROEDER: Objection.  
15 Foundation. You can answer.

16 A I don't recall.

17 Q You don't recall. Okay.

Foudation  
Assumes Facts  
Relevance

18 Just redirecting your attention to  
19 Plaintiff's Exhibit 3, I want to direct your  
20 attention to the language beginning in the  
21 second half of the first page. "Moore was  
22 instructed at that time to inform him team that  
23 practice was to cease immediately."

24 Were you involved in instructing Moore to  
25 cease the mistinting practice?

*mistinting*

**NETWORK DEPOSITION SERVICES**  
**Transcript of Catherine McKinley**

30

Relevance  
Calls for Speculation

1 responsible as the account director for those  
2 two businesses.

3 Q Okay. Did you make any effort to determine  
4 whether or not the mistinting practice was  
5 going on at any of those other retailers?

6 A I did not.

7 Q Did anyone?

8 A I don't know.

9 Q So, for all you know, there could have been  
10 similar mistinting going on in a surreptitious  
11 fashion at the Home Depot, Walmart and the  
12 Menards stores?

13 MR. SCHROEDER: Objection. Calls  
14 for speculation. You can answer.

15 A There could have been.

16 Q Let me ask you this. Who was your counterpart  
17 at Lowe's? Who would you regularly speak with  
18 at Lowe's regarding PPG's relationship with  
19 Lowe's?

20 MR. SCHROEDER: Objection.  
21 Assumes facts. You can answer.

22 Q Well, let me ask you. Did you speak with  
23 anyone regularly at Lowe's?

24 A I never spoke to anyone at Lowe's.

25 Q Okay. Did you have a liaison role with them?

**NETWORK DEPOSITION SERVICES**  
**Transcript of Catherine McKinley**

58

Relevance  
Foundation  
Lay Opinion

1 higher up in the organization might be exposed?

2 A No.

3 Q Were you aware that after the ethics complaint  
4 was made, that Clarence Moore was permitted to  
5 retain supervision over Wally Lawson?

6 A No.

7 Q And were you aware that Clarence Moore was  
8 permitted to put Wally Lawson on a  
9 Performance Improvement Plan?

10 A No.

11 Q Were you aware that Clarence Moore was  
12 permitted to engage in market walks with  
13 Wally Lawson in which he was extremely critical  
14 of Wally Lawson?

15 A No.

16 Q Were you aware that Clarence Moore recommended  
17 that Wally Lawson be fired?

18 A No.

19 Q Were you aware that as a result of Clarence  
20 Moore's conduct, Wally Lawson was fired?

21 MR. SCHROEDER: Objection.

22 Vague. You can answer.

23 A No.

24 Q And are you aware that Clarence Moore is still  
25 with the organization?



**NETWORK DEPOSITION SERVICES**  
**Transcript of Catherine McKinley**

59

Relevance  
Foundation  
Lay Opinion

1 A No.

2 Q Do you have an opinion as to whether or not

3 that's fair?

4 MR. SCHROEDER: Objection.

5 Assumes facts and calls for speculation.

6 A No.

7 Q I'm sorry. So you have no opinion on that?

8 MR. SCHROEDER: You can answer.

9 A No.

10 Q Was there any further conversation you had

11 with Clarence Moore after you issued him the

12 letter dated February 22, 2018?

13 A No.

14 Q Did you ever review the ethics complaint?

15 A I saw something yesterday, but I don't know if

16 it was the ethics complaint.

17 Q Prior to yesterday?

18 A No.

19 Q Did you ever have any conversation with

20 Andy Mayhew about Wally Lawson?

21 A No.

22 Q Did you ever have any discussion with

23 Andy Mayhew about Clarence Moore?

24 A I don't think so. I don't recall, but I don't

25 think so.

Relevance  
Foundation  
Lay Opinion

Relevance  
Foundation  
Lay Opinion

IN THE UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

WALLEN LAWSON,

Plaintiff,

vs.

Case No. 8:18-cv-00705-AG-JPR

PPG ARCHITECTURAL FINISHES, INC.,

Defendant.

*JVS 4.22.25*  
*reinstated testimony*

VIDEOTAPED DEPOSITION

OF

SEAN KACSIR,

taken on behalf of the Plaintiff, pursuant to Notice  
to Take Deposition, beginning at 9:10 a.m. on the  
28th day of March, 2019, at 1501 Westport Road,  
Suite 100, in the City of Kansas City, County of  
Jackson, and State of Missouri, before Ksenija M.  
Zeltkalns, RPR, Kansas CCR No. 1461.



1 team can't do that but we can help make a label.

2 Most of the times the sales associates may not have

3 known how to make a label.

4 Q. Okay.

5 A. So we had access to labels.

6 Q. Okay. Let me ask you this. Different

7 question.

8 A. Um-hm.

9 Q. Clarence Moore has a tag line to his

10 e-mail reading: Being committed is so much more

11 rewarding than being compliant.

12 Do you see that?

13 A. I do.

14 Q. Were you aware of that?

15 A. I saw it. I never really read it.

16 Q. Well, it was in all his e-mails to you and

17 everyone else, was it not?

18 A. Yeah. It was just garbage on the bottom

19 of his e-mail. I mean, I never read his e-mails on

20 that part of it, I mean.

21 Q. Well, it's right there in plain view in

22 quotation marks right before his signature line, is

23 it not?

24 A. Yes.

25 Q. So you're telling me you never noticed it

Relevance  
403  
Argumentative

1 before?

2 A. I never really read it, no. All of my  
3 regionals have some weird tag line on the bottom of  
4 their e-mail.

5 Q. Would this tag line, though, in particular  
6 not give you some pause, some concern?

7 A. I mean, I never really looked at it or  
8 cared about it.

9 Q. Well, he seems to be poo-pooing the idea  
10 of being compliant rather brazenly, does he not?

11 MS. COGBILL: Objection. Misstates and  
12 argumentative.

13 A. I believe that if you asked several people  
14 their opinion on this e-mail they would come up  
15 with different answers.

16 BY MR. FOX:

17 Q. Well, how do you interpret it? What do  
18 you think it means?

19 A. I just, in my opinion he wants his team to  
20 be committed to what they're doing.

21 Q. And he's suggesting that it's much more  
22 important to be committed than to be compliant?

23 A. I read it as doing both.

24 Q. Is that not correct?

25 A. Sorry. I interrupted.

1 MS. COGBILL: It's okay. I was just going  
2 to put an objection on the record that it's  
3 argumentative, but.

4 BY MR. FOX:

5 Q. Well, I'm just trying to figure out how  
6 someone can interpret this in any reasonable  
7 fashion other than as it appears to read, that  
8 Clarence Moore seems to be saying that being  
9 committed is of much greater value than being  
10 compliant?

11 MS. COGBILL: Objection. Again,  
12 argumentative.

13 BY MR. FOX:

14 Q. Isn't that what it says?

15 A. No. That's your opinion. I read it as  
16 he's committed and compliant but that's just my  
17 opinion of the statement. It could be looked at  
18 from anybody, but.

19 Q. It doesn't say that. It says being  
20 committed is so much more rewarding than being  
21 compliant. It doesn't say being committed and  
22 being compliant are both rewarding, does it?

23 MS. COGBILL: Objection. Argumentative.  
24 The document speaks for itself.

25 BY MR. FOX:

1 BY MR. FOX:

2 Q. If it happened he'd be subject to  
3 termination? That's what I'm asking you.

4 MS. COGBILL: Same objections.

5 A. Hypothetically if it happened there would  
6 have to be an investigation.

7 BY MR. FOX:

8 Q. Okay. And there was an investigation was  
9 there not?

10 A. I don't know. I mean there's -- we had --  
11 I don't know. I wasn't privy to that information.

12 Q. Okay. And if as a result of that  
13 investigation all of his direct reports all said,  
14 to a man or woman, yeah, he told us to mistint the  
15 paint and he told us to do it over a three-month  
16 period, and assuming those people were being  
17 truthful, would that not likely result in Clarence  
18 Moore's termination?

Incomplete (No  
Answer)  
Assumes Facts

19 MS. COGBILL: Objection. Assumes facts.  
20 Calls for speculation.

21 A. I don't know. I've never had a situation  
22 where it happened before, so again, I would --  
23 hypothetically if it happened, I assume that the  
24 people that made the investigation would  
25 communicate to me what to do in that situation.



1 BY MR. FOX:

2 Q. Do you know why they didn't -- why no  
3 action was taken against --

Assumes Facts  
Incomplete (No  
Answer)

4 THE REPORTER: I didn't -- repeat.

5 BY MR. FOX:

6 Q. Do you know why no action was taken  
7 against Clarence Moore --

8 MS. COGBILL: Objection.

9 BY MR. FOX:

10 Q. -- from engaging in this activity?

11 MS. COGBILL: Sorry. Objection. Assumes  
12 facts.

13 A. I wasn't a part of the investigation.

14 BY MR. FOX:

15 Q. And do you think it's true also that if it  
16 were determined that you had knowledge as Clarence  
17 Moore's supervisor that he was directing his  
18 territory managers to mistint the paint  
19 intentionally, and secretively, that you could also  
20 be subject to termination by PPG?

Assumes Facts  
Foundation

21 MS. COGBILL: Objection. Misstates facts.

22 A. It didn't happen, so I mean.

23 BY MR. FOX:

24 Q. Would you understand that would be the  
25 consequence though, if such a thing had happened?

Assumes Facts  
Foundation

1 A. I never thought about it until you brought  
2 it up. I wouldn't do that so I mean, you're asking  
3 me a question on something I don't know how to  
4 answer. I don't know, I --I guess I don't know  
5 what your question is. You're saying that if I  
6 knew about it and secretly did that.

Assumes Facts  
Foundation

7 Q. If you were aware that Clarence Moore was  
8 doing it and didn't do anything to stop it, do you  
9 think you'd be subject to being fired by the  
10 company?

11 A. I don't know. That's not my decision.

12 Q. And it's your testimony today that you had  
13 no knowledge of intentional mistinting at the  
14 direction of Clarence Moore?

15 A. Correct.

16 Q. All right. I just want to know you, ask  
17 you if you've seen it before, Exhibit 48. I take  
18 it you've never seen this document before?

19 A. This document, correct.

20 Q. Okay. Did you ever see any documents that  
21 you thought constituted Wally Lawson's training  
22 roster?

23 A. I don't know if I actually saw -- I don't  
24 know if I ever looked at Wally's training roster,  
25 but I did get training rosters in on a monthly



1 Q. Okay. I'd like to show you Exhibit 35.  
2 Were you advised of Wally's termination interview,  
3 if you want to call it that, or termination  
4 session. Let's call it that.

5 A. I knew that it was taking place.

6 Q. Did you hear about what transpired there?

7 A. I did not.

8 Q. Did Clarence call you after the interview  
9 or after the firing?

10 A. I don't recall.

11 Q. Do you know if during the course of the  
12 firing session Wally said to Clarence: If anyone  
13 should be fired, it should be you, Clarence,  
14 because you stole from Lowe's, our valued customer.

15 Did Clarence tell you that Wally had said  
16 that in his firing session?

17 A. No.

18 MS. COGBILL: Objection. Assumes facts.

19 A. No.

20 BY MR. FOX:

21 Q. Now, are you aware that Clarence when  
22 confronted with the mistinting allegations by Ian  
23 Dalton, that he lied about it? He said he never  
24 told anyone to mistint?

Assumes Facts  
Foundation

25 MS. COGBILL: Objection. Assumes facts.

1 A. I wasn't part of that conversation.

2 BY MR. FOX:

3 Q. Were you aware that Wally had been told  
4 that -- in his -- in his firing session that -- by  
5 Clarence that it doesn't matter what -- what he --  
6 what he had to say, that he was going to be fired  
7 anyways?

8 MS. COGBILL: Objection. Assumes facts.

9 A. I wasn't a part of that conversation at  
10 all, so I'm going to answer no to any question  
11 related to this.

12 BY MR. FOX:

13 Q. Did Andy Mayhew not call you up after the  
14 session and talk to you at all about what Wally had  
15 said?

16 A. I don't believe so.

17 Q. You don't recall if he called you and  
18 said -- asked you about why Wally would have said  
19 to Clarence: You should be fired. It should be  
20 you because you stole from Lowe's, our valued  
21 customer?

22 MS. COGBILL: Objection. Assumes facts.

23 A. I don't -- I don't believe so. No. At  
24 least I don't remember, so.

25 BY MR. FOX:

1 Q. Do you think it's ironic that Clarence  
2 Moore is still at the company, still at PPG,  
3 employed, when Wally, who blew the whistle, was  
4 fired?

5 MS. COGBILL: Objection. Assumes facts.  
6 Argumentative.

7 A. I don't have an opinion. I'm not his  
8 supervisor and I didn't hire him, so I don't know.

9 BY MR. FOX:

10 Q. Can I ask you about Exhibit 46, just had a  
11 question about this document. It's a document  
12 dated October 23rd, 2018. This is an e-mail that  
13 you forwarded to Andy Mayhew on October 23rd, 2018.  
14 This was sent after Wally's termination, correct?

15 A. I'm not sure exactly what day he was  
16 terminated. September 6th, so according to this  
17 document, yes.

18 Q. Okay. Why did you send this? Do you  
19 know?

20 A. Because Andy asked me for it.

21 Q. Do you know why?

22 A. No.

23 Q. Just ask you to identify Exhibit 36. It  
24 appears to be a Non-Exempt Position Description for  
25 the Lowe's territory managers. Is that -- is that

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

WALLEN LAWSON,

Plaintiff,

vs.

PPG ARCHITECTURAL FINISHES,  
INC.,

Defendant.

Civil Action No.  
8:18-cv-00705-AG-JPR

*no change*  
*JVS 4.22.25*

VIDEOTAPED DEPOSITION OF BEAU GOODWIN

IRVINE, CALIFORNIA

MONDAY, DECEMBER 10, 2018

DORIEN SAITO, CSR 12568, CLR

1 MR. BINDER: Objection. No foundation.

2 Calls for speculation.

3 MR. FOX: I'm asking yes or no. I don't

4 know how it calls for speculation, Counselor --

5 MR. BINDER: Vague as to time.

6 MS. LAVI: Join.

7 BY MR. FOX:

8 Q. At any time --

9 SPEAKER3: And I join in those objections.

10 BY MR. FOX:

11 Q. At any time. Let's --

12 MS. LAVI: Please let me make objections as

13 well.

14 MR. FOX: Okay. You should object as to

15 form that's it.

16 Q. Now, can you answer the question?

17 A. The -- the answer is no.

18 Q. Okay. Were you aware that Clarence Moore

19 had asked his territory managers to mis-tint the

20 Rescue It product? Did you ever hear of that

21 happening?

22 MR. BINDER: Objection. No foundation.

23 Calls for speculation.

24 MR. FOX: The answer is whether he knew of

25 it.

**Incomplete  
Foundation  
Calls for  
Speculation  
403**



1 MS. LAVI: Lacks personal knowledge and I  
2 join in the objections as well. Thank you. And  
3 assumes facts not in evidence.

4 BY MR. FOX:

5 Q. Okay.

6 A. No.

7 Q. Okay. Did you ever hear of anything like  
8 that happening with any vendor representatives?

9 SPEAKER2: Objection. Vague and ambiguous  
10 as to "like that." No foundation. Calls for  
11 speculation.

12 MS. LAVI: And it assumes facts not in  
13 evidence, and I join in those objections as well.

14 THE WITNESS: No.

15 BY MR. FOX:

16 Q. Okay. If you had heard that the PPG  
17 regional manager was telling his territory managers  
18 to mis-tint products that were being sold to Lowe's,  
19 what -- what would your reaction have been?

20 MR. BINDER: Objection. Calls for  
21 speculation. No foundation. It's an incomplete  
22 hypothetical. It's vague and ambiguous. Calls for  
23 a narrative.

24 MS. LAVI: And assumes facts not in  
25 evidence as well as those objections.

**NETWORK DEPOSITION SERVICES**  
**Transcript of Andrew Mayhew**

1

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 - - -  
4 WALLEN LAWSON, )  
5 Plaintiff, )  
6 vs. ) Case No.  
7 PPG ARCHITECTURAL ) 8:18-cv-00705-AG-JPR  
8 FINISHES, INC., )  
9 Defendant. )

10 - - -  
11 Videotape Deposition of ANDREW MAYHEW  
12 Thursday, March 21, 2019

13 - - -  
14 The videotape deposition of ANDREW MAYHEW,  
15 called as a witness by the Plaintiff, pursuant to  
16 notice and the Federal Rules of Civil Procedure  
17 pertaining to the taking of depositions, taken  
18 before me, the undersigned, Nina Warren Biehler, a  
19 Notary Public in and for the Commonwealth of  
20 Pennsylvania, at the law offices of Obermayer  
21 Rebmann Maxwell & Hippel LLP, Suite 5240, One  
22 Mellon Center, 500 Grant Street, Pittsburgh,  
23 Pennsylvania 15219, commencing at 10:16  
24 o'clock a.m., the day and date above set forth.

25 - - -  
26 NETWORK DEPOSITION SERVICES  
27 1101 GULF TOWER  
28 707 GRANT STREET  
29 PITTSBURGH, PENNSYLVANIA 15219  
30 (866) 565-1929  
31 - - -

*NO CHALLENGE*

**NETWORK DEPOSITION SERVICES**  
**Transcript of Andrew Mayhew**

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1 you not?

2 A Yes.

3 Q And were you not aware, at the time  
4 you signed off on it, that Clarence Moore had  
5 directed his subordinates, including Wally Lawson,  
6 to commit inventory fraud?

7 A I'm not aware of that. I'm only aware  
8 of it based off of what I know from this lawsuit.

9 Q Did no one advise you that Wally  
10 Lawson had called the ethics hotline and reported  
11 his supervisor's fraudulent activity?

12 A I was not aware of that, no.

13 Q When did you become aware of that?

14 A When this lawsuit was brought forward.

15 Q Okay. Had you known that, had you  
16 known that Wally had reported that Clarence Moore  
17 had directed him to commit inventory fraud, would  
18 you have handled this situation differently?

Foundation  
Calls for  
Speculation

19 MR. SCHROEDER: Objection, calls  
20 for speculation.

21 But you can answer.

22 THE WITNESS: I mean, it would  
23 have depended on everything involved, what  
24 was told to him, what -- what the severity  
25 was. I can't confirm.

**NETWORK DEPOSITION SERVICES**  
**Transcript of Andrew Mayhew**

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Foundation  
Calls for  
Speculation

1 BY MR. FOX:

2 Q Do you think you would have allowed  
3 Clarence Moore to terminate Wally had you known  
4 that?

5 A Again, depending on the severity. I  
6 mean, depending on all the cases -- depending on  
7 all the facts in the case, I can't confirm what  
8 our recommended course of action would have been.

9 Q Is it a violation of the Global Code  
10 of Ethics for a manager or supervisor to instruct  
11 a subordinate, who's a nonexempt employee, to work  
12 hours off the clock without reporting them?

13 A I'm not -- I'm not sure if it's within  
14 our Global Code of Ethics, but it's against our  
15 time and attendance policy to work hours off the  
16 clock.

17 Q Okay. And why is this important?

18 A To ensure that we pay employees for  
19 all hours they worked.

20 Q And because it's not fair to the  
21 employee to make them work hours -- extra hours  
22 without being paid; isn't that right?

23 A Yes.

24 Q I'd like you to take a look at Moore  
25 Exhibit 24.

**NETWORK DEPOSITION SERVICES**  
**Transcript of Andrew Mayhew**

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Argumentative  
Assumes Facts

1 Q Okay. So if someone testified under  
2 oath that there was, they'd be lying?

3 MR. SCHROEDER: Objection,  
4 assumes facts.

5 THE WITNESS: I -- I mean -- I  
6 was not aware of a formal policy.

7 BY MR. FOX:

Argumentative  
Assumes Facts

8 Q Okay. If Clarence Moore had said that  
9 in his deposition the day before yesterday, he  
10 would be lying, correct?

11 MR. SCHROEDER: Objection,  
12 assumes facts, calls for speculation.

13 THE WITNESS: I was not present.

14 BY MR. FOX:

Argumentative  
Assumes Facts

15 Q Okay, I'll represent to you that's  
16 what he said.

17 A Okay.

18 Q So that would be a false testimony,  
19 correct?

20 A Yes.

21 Q Okay. How frequently do regional  
22 managers typically do market walks with territory  
23 managers?

24 A I don't recall what the quota was, but  
25 I know each manager had a set expectation that



**NETWORK DEPOSITION SERVICES**  
**Transcript of Andrew Mayhew**

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1           A       From what I understand of the market  
2 walk, it was, for each task or each topic, you  
3 either received all the points or none. It was an  
4 all or nothing scaling.

5           Q       What -- what is your basis for that  
6 belief?

7           A       Just in having conversations with the  
8 business in how the form was completed.

9           Q       Okay, other than -- other than with  
10 respect to Wally's performance improvement plan,  
11 did you ever have cause to evaluate any other  
12 market walk reports during your HR career, up to  
13 this point in time?

14          A       If other employees were not  
15 performing, sure, we reviewed their market walks.

16          Q       Do you recall any?

17          A       Not specifically.

18                   MR. FOX: Okay, I'd like to show  
19 you what's been marked as Plaintiff's Exhibit  
20 No. 43.

21                   By the way, let the record  
22 reflect that Andrew Horowitz has replaced  
23 Qiwei Chen in attending the deposition.

24 BY MR. FOX:

25          Q       Have you seen Exhibit 43 before?

Foundation  
Relevance  
403  
Lay Opinion

**NETWORK DEPOSITION SERVICES**  
**Transcript of Andrew Mayhew**

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Foundation  
Relevance  
403  
Lay Opinion

1 A I -- I would have been sent this

2 e-mail, yes.

3 Q Okay. Do you recall -- so this an

4 e-mail you received from Clarence Moore, correct?

5 MR. SCHROEDER: Objection.

6 THE WITNESS: From Sean.

7 BY MR. FOX:

8 Q Well, it was forwarded to you from

9 Sean, correct?

Foundation  
Relevance  
403  
Lay Opinion

10 A I see that it's from Sean.

11 Q Okay. And does it contain an e-mail

12 from Clarence Moore?

13 A Yes. It was from Clarence, to Wally.

14 Q Okay. In the first page, does the

15 e-mail from Clarence Moore contain his tag line?

16 A Yes.

17 Q And can you read to me his tag line?

18 A "Being committed is so much more

19 rewarding than being compliant."

20 Q What did you take his tag line to

21 mean?

22 A I -- I'm not sure.

23 Q Did anyone in the company have an

24 adverse reaction to his tag line?

25 MR. SCHROEDER: Objection,

**NETWORK DEPOSITION SERVICES**  
**Transcript of Andrew Mayhew**

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Foundation  
Relevance  
403  
Lay Opinion

1 foundation.

2 THE WITNESS: Not that I'm aware

3 of.

4 BY MR. FOX:

5 Q Did you?

6 A No.

7 Q Well, you were in charge of

8 compliance, that was one of your primary roles in

9 HR; was it not?

10 MR. SCHROEDER: Objection,

11 mischaracterizes his testimony.

12 THE WITNESS: It would have been

13 a function, yes.

14 BY MR. FOX:

15 Q So were you not concerned that

16 Clarence appeared to be pooh-poohing compliance in

17 his tag line?

18 A I mean, employees put tag lines in

19 their e-mails, multiple employees do that.

20 No, I don't think he would -- he meant

21 it in the fact where he was trying to be

22 noncompliant with company policy or procedures.

23 Q Okay. Do you think this, in

24 retrospect, this e-mail tag line that Clarence had

25 adopted was revealing of who he was as a manager?

Foundation  
Relevance  
403  
Lay Opinion

**NETWORK DEPOSITION SERVICES**  
**Transcript of Andrew Mayhew**

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1 MR. SCHROEDER: Objection, calls  
2 for speculation.

3 THE WITNESS: No.

4 BY MR. FOX:

Foundation  
Relevance  
403  
Lay Opinion

5 Q This is a manager who would defraud  
6 the company's partner, Lowe's, systematically  
7 through inventory fraud; isn't that right?

8 MR. SCHROEDER: Objection,  
9 argumentative, assumes facts.

10 THE WITNESS: Again, I don't have  
11 all the facts of that investigation, so I'm  
12 not -- I mean, I'm not sure if that's what  
13 his -- if he was malicious in that with his  
14 intent to do that.

15 BY MR. FOX:

Foundation  
Relevance  
403  
Lay Opinion

16 Q Do you think he was, maybe, reckless  
17 in his intent, if he wasn't malicious?

18 MR. SCHROEDER: Objection,  
19 assumes facts, foundation, calls for  
20 speculation.

21 THE WITNESS: Again, I don't have  
22 all the facts of the case. And, again,  
23 there's multiple things to be considered for  
24 me to make that determination.

25



**NETWORK DEPOSITION SERVICES**  
**Transcript of Andrew Mayhew**

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Foundation  
Relevance  
403  
Lay Opinion

1 BY MR. FOX:

2 Q Well, look, you're still in -- you're  
3 still in HR at the company, correct?

4 A Yes.

5 Q Does it not concern you that Clarence  
6 Moore is at the company, gainfully employed, and  
7 had conducted an operation that resulted in the  
8 defrauding of PPG's former partner Lowe's?

9 MR. SCHROEDER: Objection, it  
10 assumes facts, it's argumentative, it's been  
11 asked and answered.

12 THE WITNESS: Again, I was not  
13 involved in the investigation, so -- I mean,  
14 there's multiple things to be considered. I  
15 mean, Clarence, yes, is still employed.

16 MR. FOX: Um-hum.

17 THE WITNESS: So, I mean, based  
18 off of the documents you showed he was issued  
19 a warning, so. He -- yes, he's still an  
20 employee.

21 BY MR. FOX:

22 Q Okay. Does that -- does that concern  
23 you in any way?

24 A No.

25 Q Do you know if Lowe's was ever

Foundation  
Relevance  
403  
Lay Opinion



**NETWORK DEPOSITION SERVICES**  
**Transcript of Andrew Mayhew**

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Foundation  
Relevance  
403  
Lay Opinion

1 informed of the inventory fraud that was  
2 orchestrated by Clarence Moore?

3 A I'm not sure. I mean, that wasn't one  
4 of my roles in HR.

5 Q Would it concern you to hear that  
6 Lowe's had never been informed of the inventory  
7 fraud?

8 MR. SCHROEDER: Objection,  
9 assumes facts.

10 And, just again, for the record,  
11 there's a motion for a protective order  
12 pending on this issue.

13 I mean, as with Moore's  
14 deposition, I'll allow him to answer the  
15 question as long as we agree that it's not a  
16 waiver of any of the arguments in the motion  
17 for a protective order.

18 MR. FOX: I agree it's not a  
19 waiver.

20 MR. SCHROEDER: Okay, you can  
21 answer if you know.

22 THE WITNESS: Can you repeat the  
23 question?

24 MR. FOX: Yeah, can we read it  
25 back, please.